

Exhibit 28

1 UNITED STATES DISTRICT COURT

2 FOR THE WESTERN DISTRICT OF NEW YORK

3 -----
4 **BLACK LOVE RESISTS IN THE RUST, et al.,**
5 **individually and on behalf of a class of**
6 **all others similarly situated,**

7 Plaintiffs,

8 -vs-

1:18-cv-00719-CCR

9 **CITY OF BUFFALO, N.Y., et al.,**

10 Defendants.
11 -----

12 **ORAL EXAMINATION OF PHILIP SERAFINI**

13 **APPEARING REMOTELY FROM**

14 **ERIE COUNTY, NEW YORK**

15 Monday, December 27, 2021

16 9:03 a.m. - 5:15 p.m.

17 pursuant to notice

18
19 **PAGES 324 & 325 DESIGNATED CONFIDENTIAL**

20
21 REPORTED BY:

22 Carrie A. Fisher, Notary Public

23 APPEARING REMOTELY FROM ERIE COUNTY, NEW YORK

DEPAOLO CROSBY REPORTING SERVICES, INC.

135 Delaware Avenue, Suite 301, Buffalo, New York 14202
716-853-5544

—PHILIP SERAFINI - BY MS. EZIE - 12/27/21—

1 city of Buffalo and they respond to calls of
2 service within and around those housing units.

3 Q. Do you know approximately when the Housing
4 Unit was created?

5 A. It was about probably four years before I
6 arrived there so I arrived in 2015,
7 approximately 2000.

8 Q. Got it. How did you become the Housing Unit
9 captain?

10 A. I put a transfer in and I received it based on
11 seniority.

12 Q. What interested you in working for that unit?

13 MR. QUINN: Form.

14 A. It was a better schedule and there was some
15 overtime. The Housing captain would receive a
16 little bit of overtime.

17 Q. Why was that attractive at the time?

18 A. Well, I was planning on retiring in four years
19 or so and I wanted an opportunity to build up
20 my pension a little bit.

21 Q. Okay. What was the basis of overtime for the
22 Housing Unit captain role?

23 A. My overtime, I would usually come in one day a

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1 MR. QUINN: Form.

2 A. No, they were two separate units.

3 Q. Did they have a similar geographic focus in
4 the city of Buffalo?

5 MR. QUINN: Form.

6 A. Sometimes. I mean, as I said, the Housing
7 Unit was responsible for the Housing
8 properties, things that occurred in those
9 properties. Sometimes if -- I am sure
10 sometimes the Strike Force would patrol in
11 there and police in there.

12 Q. Okay. And how much involvement did you have
13 in setting the patrols for Strike Force, the
14 Strike Force team?

15 A. I really didn't have anything to do with it
16 but occasionally, as I said, I think I said
17 before, a chief from a district would request
18 that we set up traffic safety checkpoints in
19 their district.

20 Q. Were there ever occasions that you were giving
21 lieutenants on the Strike Force instructions
22 that extended beyond kind of the "a chief
23 requested this, please accommodate"?

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1 MR. QUINN: Form.

2 A. The only time I relayed instructions to them
3 was if I was told by the chief or the deputy
4 commissioner or the commissioner that he
5 wanted them to do something or to go into this
6 area I would relay it. And also when the --
7 when one of those people, one of my superiors
8 requested it, they would email it a lot of
9 times and they would copy me on the email
10 because I worked in the same building.

11 Q. Do you have a sense of why you would be the
12 recipient of those emails? It was merely that
13 you shared a building with them?

14 A. Yes.

15 MR. QUINN: Form.

16 A. Oh, I am sorry. Yes, number one, I share the
17 building. Number two, I was the person that
18 signed their overtime slips, if they happened
19 to work overtime. And if they worked -- if
20 they worked overtime, I would have to have
21 knowledge that that shift was actually created
22 or that detail was actually created. I can't
23 just sign an overtime slip just to sign it. I

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1 Q. Did you conduct performance evaluations of any
2 of the officers you reported -- who reported
3 to you?

4 A. No. That's the Buffalo Police.

5 Q. You never performed performance evaluations?

6 A. No.

7 Q. Did you say it was BPD policy not to do such
8 evaluations?

9 MR. QUINN: Form.

10 A. They don't have performance evaluations.

11 Q. Okay. How would you escalate if -- how would
12 you respond to instances where your officers
13 had deficits?

14 MR. QUINN: Form.

15 A. What do you mean by "deficits"?

16 Q. Were there ever instances where you thought
17 your officers could benefit from additional
18 training or additional supervision?

19 A. I don't believe there was.

20 Q. But there were instances where your officers
21 would be subject -- the subject of complaints?

22 A. Yes.

23 Q. How did you communicate information to your

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1 Q. Okay. What was the purpose of those meetings?

2 A. To update them if there was any updates on
3 things that were going on with our superiors,
4 and they would also give me feedback the
5 things that were happening within their
6 platoons, within their officers.

7 Q. Okay. Those were in-person meetings?

8 A. Yes.

9 Q. Okay. Was that an opportunity for you to
10 provide lieutenants instructions on the
11 details or what you expected of officers?

12 A. Sometimes.

13 Q. Okay. Were there any other ways that you sort
14 of communicated or engaged in supervision of
15 your officers that we haven't -- and
16 lieutenants that we haven't discussed?

17 A. No, none that I can think of.

18 Q. Okay. Do you know whether officers on the
19 Housing Unit received training on racial
20 discrimination?

21 MR. QUINN: Form.

22 A. I don't know.

23 Q. Do you know whether they received training on

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1 racial profiling?

2 A. I can't say.

3 MR. QUINN: Form.

4 Q. Do you know whether Housing Unit officers
5 received training on searches and seizures?

6 MR. QUINN: Form. You broke up a little
7 bit on our end.

8 Q. Oh, sorry. Do you know whether Housing Unit
9 officers received training on the
10 constitutional requirements for searches and
11 seizures?

12 MR. QUINN: Form.

13 A. No.

14 Q. Do you know whether Housing Unit officers
15 received any training on the procedures for
16 conducting traffic checkpoints?

17 MR. QUINN: Form.

18 A. No.

19 Q. And during your time as Housing Unit captain,
20 did you provide your officers any instruction
21 on those topics?

22 MR. QUINN: Form.

23 A. No.

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1 Q. Did you take any steps to ensure that your
2 officers and lieutenants were not engaging in
3 racial profiling?

4 MR. QUINN: Form.

5 A. No.

6 Q. Okay. Now, am I correct that the Housing Unit
7 also had an involvement in traffic
8 checkpoints?

9 A. Sometimes they would conduct traffic safety
10 checkpoints in or around the Buffalo Municipal
11 Housing properties.

12 Q. Okay. How often was that the Housing Unit's
13 practice?

14 A. It was rare.

15 Q. In instances where the Housing Unit did
16 conduct checkpoints around BMHA properties,
17 what was the reasoning?

18 MR. QUINN: Form.

19 A. To enforce vehicle and traffic law and penal
20 law.

21 Q. Since it was rare, what, if anything, would
22 warrant the creation of a checkpoint to your
23 understanding?

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1 Q. Okay. So I am now going to zoom in on page 2
2 of this document. Do you so at the top where
3 it says "Housing Unit in general," and it
4 indicates that you "patrol through and respond
5 to calls for service within the BMHA
6 properties"? Is that one of the functions
7 your Housing Unit officers performed?

8 A. Yes.

9 Q. Okay. Did they check the parking lot for
10 unauthorized vehicles as indicated here?

11 A. Yes.

12 Q. Did they impound vehicles and conduct traffic
13 stops as well?

14 A. Yes.

15 Q. And do you see here that it says another
16 function you performed was to "stop and
17 question gang members and parolees driving
18 and/or walking through BMHA properties and
19 ensure that they are there for a lawful
20 purpose"?

21 A. Yes, I do see that.

22 Q. Was that one of your practices during the time
23 as --

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1 A. Yes, but --

2 Q. -- Housing Unit captain?

3 A. Yes, but there is a little more meaning to
4 that. What I probably should have said in
5 their travels and their duties when they see
6 suspicious people, they stop and question them
7 and a lot of them turn out to be gang members
8 and parolees.

9 Q. And when you say "suspicious people," what do
10 you mean?

11 A. People doing --

12 MR. QUINN: Form.

13 A. I am sorry. Conducting suspicious activity
14 they may think are committing or in the
15 process of committing a crime.

16 Q. You agree that's not what this indicates here?

17 MR. QUINN: Form.

18 A. Well, I should have worded it a little bit
19 differently. What this is is our services
20 that we perform above baseline which meant
21 normal patrol and everything. This is the
22 result of some of the investigative patrolling
23 that the officers did. A lot of times when

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1 they did investigate suspicious activity, the
2 person turned out to be a gang member or
3 someone that was out on parole.

4 Q. That's to say that after they were stopped and
5 questioned by officers, these are things that
6 you would learn at that time?

7 A. I am sorry, can you repeat that, please?

8 Q. Sorry. That after these individuals were
9 stopped and questioned by your officers, it
10 might be revealed that they are gang members
11 or parolees?

12 A. Exactly. After they were investigated, it was
13 discovered that they were a gang member or
14 someone out on parole.

15 MR. QUINN: Form.

16 A. They didn't specifically stop everybody in the
17 Housing Units. They wouldn't have even had
18 time to do that, but I am sorry.

19 Q. Okay. Now, your officers also engaged in what
20 I think is described as vertical patrols; is
21 that correct?

22 A. I don't know what you mean by vertical
23 patrols. Oh, I am sorry, they would do

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1 walkups in the high-rises. There is a lot of
2 high-rises in some of the Housing projects.
3 Five, six stories high. That's what they mean
4 by vertical. They would walk through it. A
5 lot of time there will be people doing
6 criminal things in those -- or shooting drugs
7 up in those stairwells and hallways.

8 Q. Okay. So by vertical patrol, that's to say
9 that your officers would walk up and down the
10 flights of stairs at the Housing units --
11 sorry, at the BMHA properties?

12 A. Exactly.

13 MR. QUINN: Form.

14 Q. Okay. And what occurred during the vertical
15 sweeps or patrols? Were there any protocols
16 that officers were to follow?

17 MR. QUINN: Form.

18 A. Just regular police duties. If they had
19 suspicions or had cause to arrest somebody,
20 just as their normal patrol duties except they
21 were walking up and down so not patrolling in
22 the vehicle.

23 Q. Now on two occasions you have described, you

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1 Q. But you did relay the instructions you were
2 given?

3 A. Yes, I did.

4 Q. Okay. Were some of those maps showing areas
5 with recent shootings?

6 MR. QUINN: Form.

7 A. Yes.

8 Q. Why would checkpoints be located in areas with
9 recent shootings?

10 MR. QUINN: Form.

11 A. Because it's been shown that they deter crime.
12 When a traffic checkpoint is conducted in an
13 area -- when you have 15 police officers in an
14 area with six or seven patrol cars and they're
15 checking registrations, the criminals aren't
16 going to commit crimes right there. More
17 likely than not they're not going to commit
18 crimes there. They're going to -- criminals
19 are going to stay away from where the police
20 are if they can see the police.

21 Q. Okay. So were the checkpoints operated in a
22 manner where only motorists who were involved
23 in shootings had to pass through them?

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1 MR. QUINN: Form.

2 A. No, it was all motorists.

3 Q. So any motorist in the area, regardless if
4 they were involved in any suspicious activity,
5 would be stopped?

6 A. Well, not stopped. They were slowed down so
7 that the officers could look at the
8 inspection/registration sticker and some were
9 stopped but not all of them were stopped.

10 Q. They would all have to pass through the
11 checkpoint if it was established --

12 A. They would --

13 Q. -- along their commute?

14 A. Yes, drive through it.

15 Q. Okay. What other activities did your officers
16 or Strike Force officers perform at the
17 traffic checkpoints?

18 MR. QUINN: Form.

19 A. They slowed down the vehicles. They looked
20 for vehicular and traffic law violations and
21 sometimes they came across other things.

22 Q. Did they question the motorists?

23 A. Sometimes if the motorists were stopped. Most

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1 A. No, it's --

2 MR. QUINN: Form.

3 A. -- not.

4 Q. How would you describe it?

5 A. I don't know what takes place in the
6 conference so I can't answer that, and I don't
7 have knowledge of what is said at the
8 conference. I don't get any documentation of
9 what was transpired in a conference. All I --
10 the only thing I would receive was that he had
11 a conference. I don't know what they talked
12 about. They talked about the complaint, but I
13 don't know anything else.

14 Q. And that's true even in cases where the
15 officer or lieutenant is someone in your
16 direct command?

17 A. That's correct.

18 Q. Okay. I'd like to turn to an exhibit that was
19 produced by defendants as COB042054. This is
20 going to be Serafini Exhibit 16. This is a
21 document where for some reason we did not
22 receive the full file so what I am able to
23 share is just your email that is dated April

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1 discovery as COB016309 and I am pulling that
2 up momentarily.

3 Okay. Mr. Serafini, are you able to see
4 this?

5 A. I see it, yes.

6 Q. Do you see that this is an email that you sent
7 on May 8th, 2017, to a number of BPD personnel
8 including the Strike Force lieutenants and
9 Chief Young?

10 A. I see that, yes. As I said, I guess I created
11 the top portion. I know I didn't create the
12 bottom portion of that form.

13 Q. Okay. And do you see that it's indicating
14 that one of the main changes you have made is
15 that you have space now to write in up to four
16 checkpoint locations?

17 A. I see that.

18 Q. So you can write all four checkpoint locations
19 on one sheet?

20 A. That's correct.

21 Q. Does that refresh your recollection that as of
22 2017 the Strike Force was at times running up
23 to four checkpoints a day?

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1 A. At that period of time, yes, in 2017.

2 Q. Okay. And it also states that "every week I
3 will be forwarding a copy of these checkpoint
4 forms to Deputy Police Commissioner Lockwood's
5 office so please ensure that all the
6 information is accurate." Do you see that?

7 A. Yes, I do.

8 Q. Do you have any understanding of why these
9 forms were being forwarded to Deputy Police
10 Commissioner Lockwood?

11 A. He instructed me that he wanted the forms.

12 Q. Did he explain why?

13 A. No, he didn't.

14 Q. And who instructed you to maintain checkpoint
15 location data more generally?

16 MR. QUINN: Form.

17 A. I don't know if it came from Deputy
18 Commissioner Lockwood or not.

19 Q. But BPD --

20 A. There is -- let me reiterate. They were
21 keeping track of the locations on a form
22 before I was transferred there so, I mean,
23 this just continued when I was transferred

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1 multiple -- about motorists being issued
2 multiple tickets at one stop?

3 A. I don't know if I received complaints about
4 that but that was an occurrence. Sometimes
5 officers -- you know, someone had six or seven
6 violations and the officers wrote them tickets
7 for all those violations.

8 Q. Isn't it true that sometimes officers would
9 write, you know, four or five or even six
10 tickets for tinted windows in a single stop?

11 MR. QUINN: Form.

12 A. I don't know. Again, if they had four
13 severely tinted windows, they could write
14 that. If they had one tinted window illegal,
15 they could write that, the one, too. That's
16 up to the officer's discretion.

17 Q. So the officers -- you did not provide
18 officers any guidance about how to approach
19 tinted window ticketing, for instance?

20 MR. QUINN: Form.

21 A. No, I didn't.

22 Q. And you didn't -- officers -- you did not
23 provide officers guidance about how many

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1 tickets were too many tickets to issue at
2 once?

3 A. Not that I can remember.

4 Q. Did anyone in the BPD to your knowledge
5 instruct officers that they should refrain
6 from issuing four, five, six tickets at a time
7 to a single motorist?

8 MR. QUINN: Form.

9 A. Not that I can remember.

10 Q. Ultimately, it was just a matter of officer
11 discretion, how many tickets to issue at a
12 time?

13 A. It should have been, yes. If a person had
14 four violations and they wanted to write them
15 for four violations, they could write them.
16 If they want to use discretion and only write
17 them for three and let them go on one, that
18 was up to their discretion as it is any
19 officer in the city.

20 Q. You didn't see it as one of your duties as
21 captain to create standards around how and
22 when your officers issued tickets or
23 summonses?

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1 Q. Okay. Now, assuming you have reviewed the
2 complaint in this case, are you aware that we
3 allege there are instances where officers did
4 in fact write four, five, or six traffic
5 summonses for tinted windows at a time?

6 A. Am I aware of an officer doing that
7 specifically? No.

8 Q. Are you aware that that's an allegation in
9 this case?

10 A. That someone is alleging that? I am not aware
11 that someone is alleging that or was alleging
12 that.

13 Q. To confirm, there is nothing in the V&T or BPD
14 policy that requires your officers to issue
15 separate tickets for each tinted window a
16 motorist has, correct?

17 A. Not that I know of.

18 Q. So if your officers issued more than one
19 tinted window ticket, that was an act of
20 discretion on their part?

21 MR. QUINN: Form.

22 A. Yes.

23 Q. And you also agree that not all tinted windows

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1 it. All right?

2 A. Thank you.

3 Q. Do you want to take 10 minutes this time?

4 A. That's fine. Thanks.

5 Q. Thanks.

6 (A recess was taken.)

7

8 BY MS. EZIE:

9 Q. Okay. Mr. Serafini, earlier we were speaking
10 about TraCS and ENTCAD and I think it's fair
11 to say you didn't really engage those systems
12 much. Are you aware that TraCS allows --
13 sorry, that these systems allow for the race
14 of motorists to be recorded alongside ticket
15 information?

16 A. I wasn't aware of that, no.

17 Q. Did you ever -- so fair to say that you never
18 instructed your officers to try and record the
19 race of motorists who they stopped?

20 A. No.

21 MR. QUINN: Form.

22 Q. Okay. And now there were, however, a number
23 of paperwork practices that you engaged in on

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1 one hand as chief of the Housing Unit and on
2 the other hand as someone that helped with
3 administration of the Strike Force, correct?

4 A. Yes, as captain of the Housing Unit, right.

5 Q. Correct, okay. And so that included creating
6 reports that officers could fill out regarding
7 the number of arrests they made, for instance?

8 A. Yes.

9 Q. The number of traffic summonses they issued?

10 A. Yes.

11 Q. The number of vehicles they impounded?

12 A. Yes.

13 Q. Among other police functions. And you
14 documented this both for the Housing Unit as
15 well as the Strike Force, correct?

16 A. Yes.

17 MR. QUINN: Form.

18 Q. Okay. And it was your practice to review this
19 information as well as to report it out to
20 higher-ups at the BPD?

21 A. Yes.

22 Q. That includes the commissioner of the BPD,
23 Commissioner Derenda?

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1 A. Yes.

2 Q. As well as Deputy Commissioner Lockwood?

3 A. Yes.

4 Q. Deputy Commissioner Beaty when she -- it's a
5 she, I believe, when she joined --

6 A. Yes, when she was in that position.

7 Q. Okay. Also Chief Young?

8 A. Yes.

9 Q. And Chief Brinkworth before Chief Young?

10 A. Yes.

11 Q. Okay. Why was it your practice to provide
12 information of the nature we just discussed to
13 all of those individuals?

14 MR. QUINN: Form.

15 A. It was my responsibility. It was part of my
16 duties.

17 Q. And what was the importance of those numbers
18 as you understood it?

19 MR. QUINN: Form.

20 A. Did you say what was the importance?

21 Q. Yes.

22 A. It's a certain measure of production for
23 police officers.

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1 Q. It was important for your officers to be
2 productive and to have high production?

3 A. To show the work they were doing.

4 Q. And that work included, you know, making
5 arrests and issuing summonses, impounding
6 cars?

7 A. Yes.

8 Q. Okay. And am I correct that there were times
9 where -- am I correct that you were expected
10 to have high production when it came to those
11 metrics?

12 MR. QUINN: Form.

13 A. Well, I don't know what you mean by "high
14 production" but you're expected to do some
15 work during the tour unless there were
16 extenuating circumstances where you weren't on
17 patrol.

18 Q. Okay. But work, again, as we're describing it
19 here is producing arrests, summonses,
20 impounds, etcetera?

21 MR. QUINN: Form.

22 A. That's a part of it, a part of it.

23 Q. And am I correct that there were times where

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1 of a shift police officers would not make
2 arrests or issue summonses solely because
3 there was no crime to respond to?

4 MR. QUINN: Form.

5 A. That's quite possible, yes, sure.

6 Q. So what explains the attitude that if you're
7 not producing results you may not be doing the
8 work?

9 A. I don't understand the question.

10 Q. Okay. There seems to be an expectation that
11 if you are doing your jobs and doing the work
12 that you're also generating arrests and
13 summonses. Why is that?

14 MR. QUINN: Form.

15 A. Because, like it or not, there is crime out
16 there. There are people/citizens that are
17 violating the laws.

18 Q. And the expectation that your units would be
19 productive was an expectation held by the
20 higher-ups at the BPD, correct?

21 MR. QUINN: Form.

22 A. That's correct, yeah. Yes.

23 Q. Including Commissioner Derenda and Chiefs

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1 Young and Brinkworth?

2 MR. QUINN: Form.

3 A. Yes.

4 Q. Deputy Commissioner Lockwood as well?

5 MR. QUINN: Form.

6 A. Yes.

7 Q. I would like to mark as an exhibit I believe
8 this will be Exhibit 26, Serafini Exhibit 26,
9 a document that's been produced by defendants
10 and Bates stamped COB042018.

11 Mr. Serafini, let me know if you're able
12 to see this.

13 A. Yes, I can see it.

14 Q. Okay. Because it's an email chain I am going
15 to scroll to the bottom, but do you see that
16 looking at the top that this is an email
17 that -- an email chain that includes you from
18 October 2015?

19 A. Yes, I see that.

20 Q. Okay. So, again, I am scrolling down just so
21 we can read from the beginning of the chain.
22 So do you see this that the subject of this
23 message is a new Strike Force Daily Report has

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1 been submitted?

2 A. Yes.

3 Q. What can you tell us about Strike Force Daily
4 Reports? What were they?

5 A. Well, that's the report I referred to earlier,
6 we have referred to earlier, that every
7 night -- every day at the end of the tour the
8 Strike Force and the Housing would send a
9 daily report. They would send it through the
10 computer system. It would go on what they
11 called our bulletin boards which was a
12 computer -- again, an area of the computer
13 system and a report would directly go to me,
14 the captain, and it would go to the deputy
15 commissioners, the commissioner, and the chief
16 of the units.

17 Q. Got it. And that's in part what this
18 distribution list reflects?

19 A. Yes.

20 Q. Okay. So I am scrolling up and this was not
21 produced with the underlying report as an
22 attachment so I don't have that for us to
23 review, but I am going to just show you the

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1 email chain. So do you see here that Police
2 Commissioner Derenda responds to this Strike
3 Force Daily Report?

4 A. Yes.

5 Q. What does his response state?

6 A. If you can scroll it up a little bit more?

7 Q. Sure. It's kind of stretched between two
8 pages.

9 A. Oh, I am sorry. Commissioner Derenda states,
10 "not much production."

11 Q. Got it. So is it fair to say that he is
12 commenting on the results or the numbers that
13 were submitted in the nightly report?

14 A. Yes --

15 MR. QUINN: Form.

16 A. -- he is commenting on that.

17 Q. Okay. And he is expressing some disapproval
18 about the performance?

19 MR. QUINN: Form, specifically
20 "performance".

21 A. I think what he is implying is he wants to
22 know why.

23 Q. Okay.

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—PHILIP SERAFINI - BY MS. EZIE - 12/27/21—

1 A. Why there was no production that evening.

2 Q. Okay. On occasions where your production was
3 low, that was something you had to explain or
4 expected to explain?

5 MR. QUINN: Form.

6 A. I don't remember explaining it a lot but
7 occasionally, once in a blue moon, yes.

8 Q. So do you see here that officer -- sorry, I
9 believe he is a lieutenant.

10 A. Yes.

11 Q. Thomas Whelan, he is a Strike Force
12 lieutenant?

13 A. Lieutenant Whelan was a Strike Force
14 lieutenant, yes.

15 Q. So he responds to Derenda, correct?

16 A. Yes.

17 Q. And his first -- the first sentence of his
18 email states "the numbers represented are not
19 indicative of unit performance." Do you see
20 that?

21 A. Yes.

22 Q. Is it fair to say that the numbers that you
23 generated were one of the metrics that the

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1 commissioner used to see whether your unit was
2 performing adequately?

3 MR. QUINN: Form.

4 Q. Or the Strike Force, in this case?

5 A. It was one of the measures, yes.

6 Q. And do you see that he, Lieutenant Whelan,
7 goes on to try to explain why the performance
8 on this night was low?

9 A. Yes.

10 Q. And do you see that you went ahead and
11 forwarded that message to Chief Brinkworth?

12 A. Yes.

13 Q. Why would you have forwarded -- why would you
14 have had this communication with Chief
15 Brinkworth?

16 MR. QUINN: Form.

17 A. What I think happened was the deputy
18 commissioner had talked to the chief about it
19 but he directly emailed Lieutenant Whelan and
20 Lieutenant Whelan emailed his response back to
21 Commissioner Derenda without including our
22 chief on the report and I wanted to make my
23 chief aware of it.

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1 Q. So low --

2 A. He is in the chain of command.

3 Q. Understood. Low performance is something that
4 concerned the commissioner of police as well
5 as the chief -- the chiefs that you reported
6 to?

7 MR. QUINN: Form.

8 A. Yes.

9 Q. Okay. Now, is it fair to say that you took
10 pride in -- strike that.

11 Is it fair to say that when your unit,
12 the Housing Unit, and when the Strike Force
13 generated more arrests, summonses, impounds,
14 parking tags, etcetera, that that was viewed
15 favorably within the BPD?

16 MR. QUINN: Form.

17 A. Yes.

18 Q. It's something that you took personal pride in
19 when you saw your officers' arrests and
20 summonses numbers increasing?

21 MR. QUINN: Form.

22 A. Yes, as long as it was being done properly and
23 legally.

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—PHILIP SERAFINI - BY MS. EZIE - 12/27/21—

1 Q. Is that something that was tracked on the
2 reports that you generated?

3 MR. QUINN: Form.

4 A. You're referring to the arrests and summonses,
5 yes.

6 Q. Yes. Did it indicate whether the arrest was
7 lawful or unlawful, or did it just say "here
8 is the number of arrests"?

9 MR. QUINN: Form.

10 A. It just stated the number of arrests.

11 Q. Okay.

12 A. And if they were a felony or a misdemeanor.

13 Q. Okay. So when you saw evidence that
14 summonses, impounds, arrests were increasing
15 among the Housing and Strike Force Units, you
16 saw that as evidence of the good work that
17 those units were doing in the city of Buffalo?

18 A. Like I said, as long as it was done properly,
19 yes, and lawfully.

20 Q. But, again, that wasn't something that you
21 tracked necessarily in any statistics, whether
22 these arrests or impounds were lawful or
23 unlawful?

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PHILIP SERAFINI - BY MS. EZIE - 12/27/21

1 MR. QUINN: Form.

2 A. No.

3 Q. I would like to show you an exhibit that was
4 produced -- I'd like to show as Exhibit 27 an
5 exhibit that was produced -- a document that
6 was produced in discovery by defendants that
7 was Bates stamped 018512 and its attachment
8 which is COB018513. Just give me one moment
9 and I will pull it up.

10 Mr. Serafini, are you able to see this
11 document? Let me make it a little bigger.

12 A. Yes.

13 Q. Are you able to read that?

14 Okay. Do you see that this is an email
15 that you're sending to the Strike Force and
16 the Housing lieutenants as well as Chief
17 Brinkworth?

18 A. Yes.

19 Q. The subject is Yearly Comparison?

20 A. Yes.

21 Q. And it's stating that you have made a
22 spreadsheet for the combined Housing and
23 Strike Force yearly statistics including the

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1 STATE OF NEW YORK)

2 COUNTY OF ERIE)

3
4 I, Carrie A. Fisher, Notary Public, in and
5 for the County of Erie, State of New York, do
6 hereby certify:

7 That the witness whose testimony appears
8 hereinbefore was, before the commencement of
9 their testimony, duly sworn to testify the
10 truth, the whole truth and nothing but the
11 truth; that said testimony was taken remotely
12 pursuant to notice at the time and place as
13 herein set forth; that said testimony was taken
14 down by me and thereafter transcribed into
15 typewriting, and I hereby certify the foregoing
16 testimony is a full, true and correct
17 transcription of my shorthand notes so taken.

18
19 I further certify that I am neither counsel
20 for nor related to any party to said action,
21 nor in anyway interested in the outcome
22 thereof.

23
IN WITNESS WHEREOF, I have hereunto
subscribed my name and affixed my seal this
12th day of January, 2022.

19
20 

21 Carrie A. Fisher
22 Notary Public - State of New York
23 No. 01FI6240227
Qualified in Erie County
My commission expires 5/02/23

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